



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

August 30, 2006

SUBJECT: **2006-0758** – Application located at **425 Nuestra Avenue**
(near Sutter Avenue) in an R-0 (Low Density Residential)
Zoning District. (APN:165-07-069) AM

Motion Variance from Sunnyvale Municipal Code section 19.34.030
to allow a 10-foot total side yard setback where 12 feet is
required for a one-story addition of a living/dining area.

REPORT IN BRIEF

Existing Site Single-family Home
Conditions

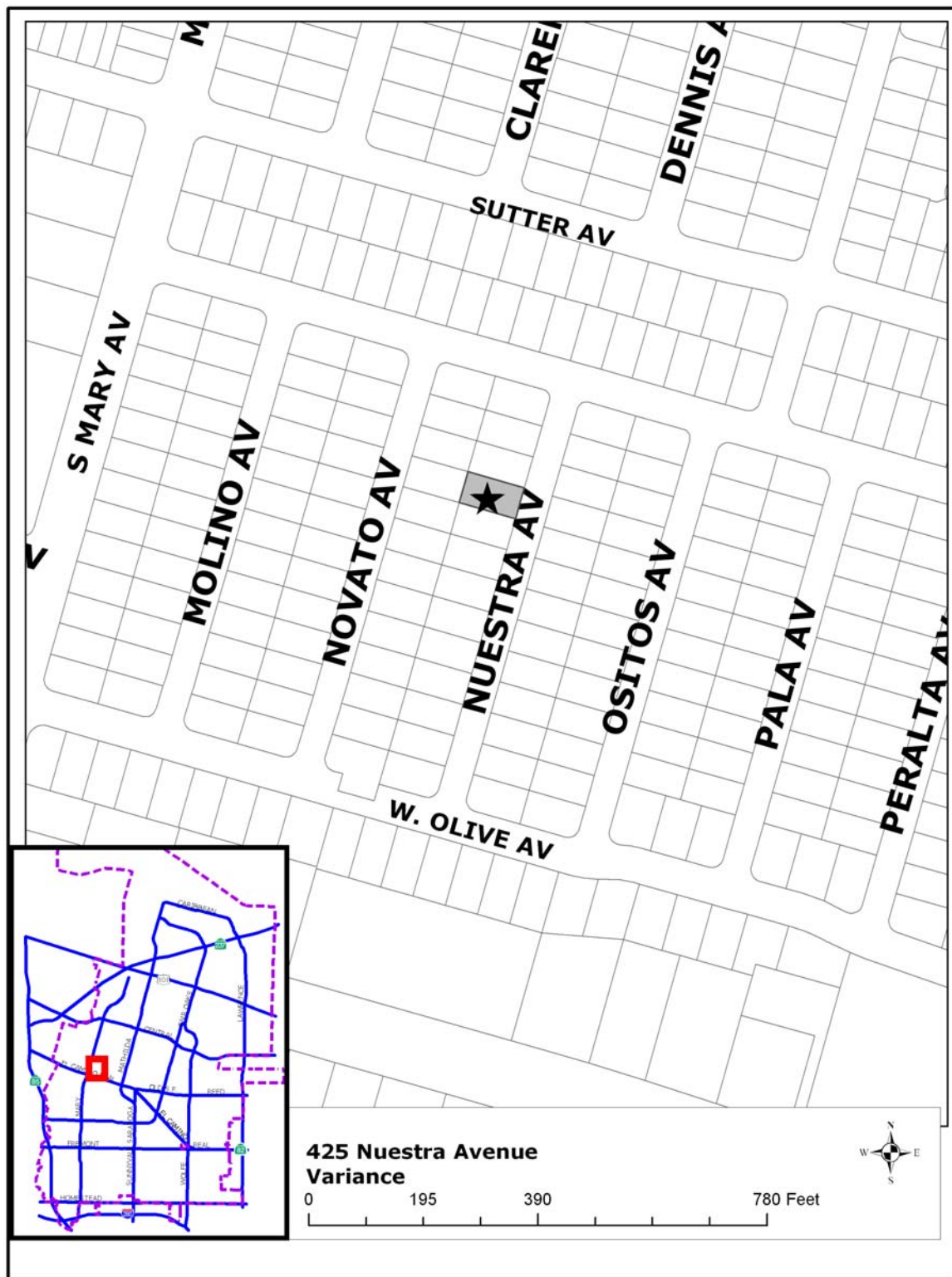
Surrounding Land Uses

North	Single-family Homes
South	Single-family Homes
East	Single-family Homes
West	Single-family Homes

Issues Justifications for a Variance

Environmental A Class 1 Categorical Exemption relieves this project
Status from California Environmental Quality Act provisions
and City Guidelines.

Staff Denial
Recommendation



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Residential Low Density	Same	Residential Low Density
Zoning District	R-0	Same	R-0
Lot Size (s.f.)	5,500	Same	6,000 min.
Gross Floor Area (s.f.)	1,522	1,989	2,475 max. (45%)
Lot Coverage (%)	27.6%	36.2%	45% max. (single story)
Floor Area Ratio (FAR)	27.6%	36.2%	45% max. without PC review
No. of Buildings On-Site	1	Same	---
Building Height (ft.)	14' 8"	Same	30' max.
No. of Stories	1	Same	2 max.
Setbacks			
Front	20' 2"	Same	20' min.
Left/Right/Total	5'/24'/29'	5'/5'/ 10'	4'/4'/12' min.
Rear	24' 6"	24' 6"	20' min.
Parking			
Total Spaces	4	Same	4 min.
Covered Spaces	2	2	2 min.
Uncovered Spaces	2	2	2 min.



Starred and bold items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS**Description of Proposed Project**

The applicant is proposing a 467 square foot addition to an existing 1,522 square foot single-story home, with a resultant total of 1,989 square feet. The existing home has three bedrooms, living room, kitchen and two-car garage. The proposed project is to expand the home behind the garage to add a living

area and dining room. The proposed addition would continue along the existing line of the wall.

The existing home is legal non-conforming with regard to the total side yard setback. The structure has a total side yard setback of 10 feet rather than the required 12 feet required by Sunnyvale Municipal Code (SMC) section 19.34.030. The applicant is requesting that the addition continue along the existing wall, which increases the non-conformity.

Background

The home was built in 1954, with no other planning permits since that time.

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include modifications to existing structures.

Variance

Surrounding Area: The subject site is located in a single-family residential area bounded by Olive Avenue and Sutter Avenue between Mary and Pastoria Avenues. The lots in the area are zoned R-0 (Low-Density Residential).

There are several homes (at least 15 on Novato, Nuestra and Ositas Avenues) that have added family or living rooms in the area behind the garage, similar to the subject proposal. After review of the permitting history of these additions, it shows that the additions were completed prior to the change in setback requirements. The two exceptions are for properties located at 432 and 467 Nuestra. The property at 432 Nuestra received a total side yard Variance for a 304 square foot family room addition in 1974. The Planning Commission made the finding that the proposed addition would be in conformance with the then-existing Council policy allowing additions to single-family homes where the proposal follows existing walls. That policy is no longer in effect. The property at 467 Nuestra received a Variance approval in 2005 for a 10 foot total combined lot side yard setback instead of the required 12 feet. The Administrative Hearing Officer approved the Variance based on meeting all required findings, including finding that a lot width of 55 feet is an exceptional or extraordinary circumstance.

Site Layout: The site has a house and attached garage situated in the center of the property. As viewed from the street, the garage sits slightly forward of the front of the living area. The existing structure does not conform to the current requirement of having a total of 12 feet setback for both sides, but has

5 feet on either side, a total of 10 feet. The existing structure is considered to be legal non-conforming with the Municipal Code because it doesn't meet the total side yard setback.

The proposal is to add a 467 square foot addition at the back of the garage with the same 5' setback to the right property line as the garage. The purpose of the addition is for a dining and living area.

Architecture: The proposed addition will take existing patio area for new house space. The proposal is to match the existing stucco finish and to re-roof the house with a new composite shingle.

The following Guidelines were considered in the analysis of the project architecture.

Single Family Design Guidelines	Comments
<i>2.2 Basic Design Principles Respect the scale, bulk and character of homes in the adjacent neighborhood.</i>	The proposal would be a minor addition to the existing structure and would be compatible with the surrounding neighborhood.
<i>3.1 Design Techniques Design homes to respect their immediate neighbors</i>	

Parking/Circulation: As required by SMC, the site provides a two-car garage and two uncovered parking spaces.

Compliance with Development Standards/Guidelines: The site currently meets all standard requirements of the R-0 Zoning District, with the exception of the total side yard setback. The requested Variance would allow the addition to be built 5 feet from the right property line instead of the required 7 feet.

Expected Impact on the Surroundings: The proposed addition would have a minimal impact on the surrounding neighborhood. Several properties in the area have similar additions, but nearly all were built from 1985 or later and do not meet current standards. If the Variance is approved, precedence would continue to be established that may increase similar Variance requests in the area.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 10 notices mailed to property owners and residents adjacent to the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website

Conclusion

Applicant's Justification: The applicant has addressed the three required findings for a Variance in Attachment D- Applicant's Letter of Justification. The applicant contends the following:

- The 5 foot setback is the standard in the area, and requiring a 7 foot setback would not follow the existing building line along that property line.
- The proposed addition would not be noticed by the neighborhood and will not be detrimental to the area.
- The minimum 5 foot setback will be maintained and approval of the Variance will not grant the applicant any special privilege.

Discussion: Staff is unable to make the first required finding for the Variance regarding exceptional conditions that apply to the property. Although there are other examples of house additions in the same location as the proposed project, the strict application of the Municipal Code requires a 12 foot total combined side yard setback regardless of the lot width. In the past, the minimum was either 5 feet, or there was a policy that allowed projects to be approved if the addition followed the line of the existing wall. Neither of these policies is still in place, and the new application must be reviewed under current standards.

Findings: Staff is recommending denial for this project because the Findings (Attachment A) could not be made. However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending the Conditions of Approval (Attachment B).

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Deny the requested Variance
2. Approve the application with attached conditions
3. Approve the application with modified conditions

Recommendation

Alternative 1

Prepared by:
Andrew Miner
Project Planner

Reviewed by:
Steve Lynch
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter from the Applicant

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.

Staff is unable to make this Finding because there is nothing exceptional or extraordinary about the property or project design that exists to prevent the setback requirement to be met. The lot is relatively narrow, but the proposed use of the new space as a dining room and living room can be designed with a 7 foot setback and still be usable space.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

Staff is able to make this finding because approving the request would not be detrimental to the neighborhood.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

Staff is able to make this finding because there are other properties in the area that do enjoy the same setback as what is proposed with this application. These properties received approvals under prior requirements.

Recommended Conditions of Approval - Variance

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

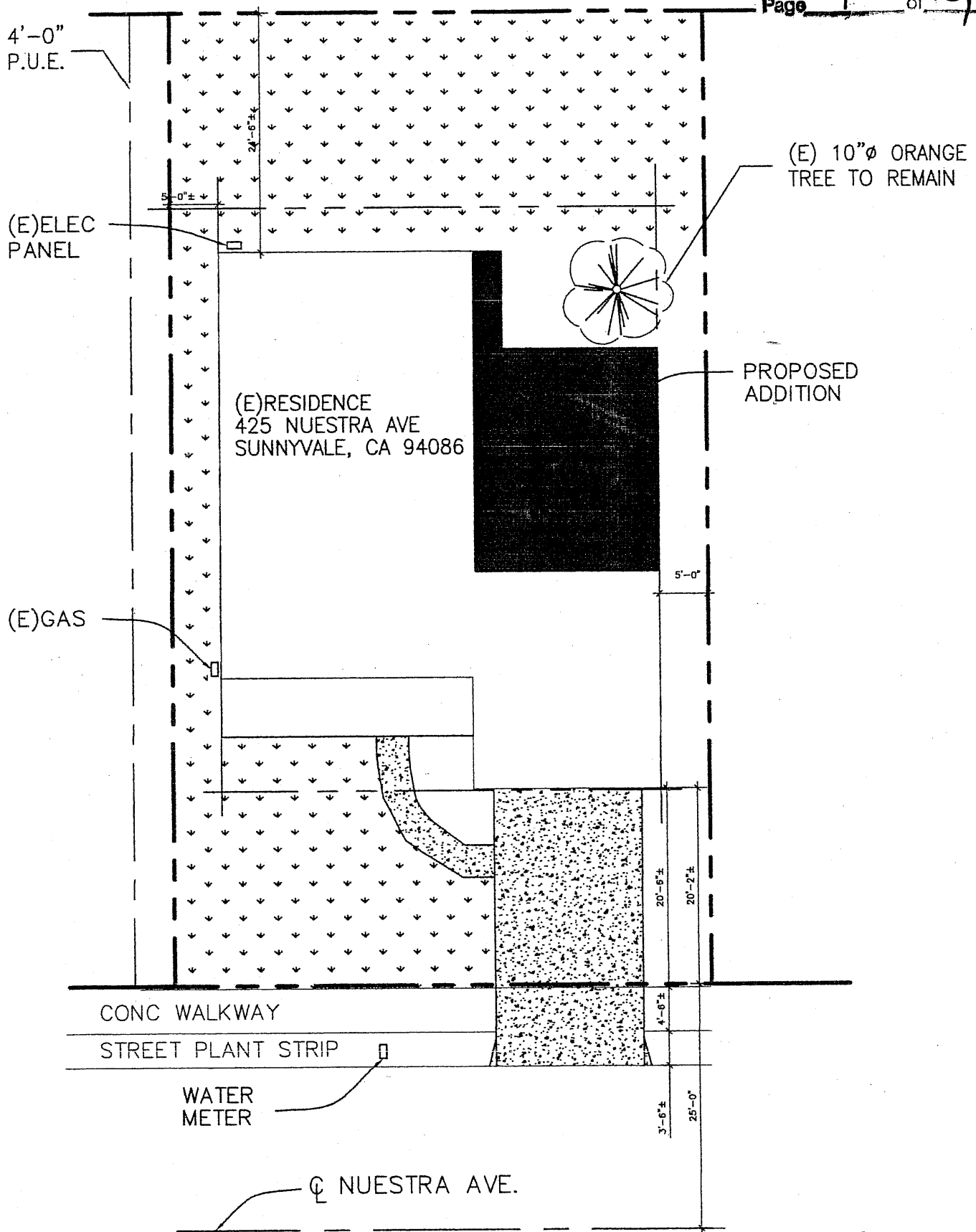
Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. The Variance shall be null and void two years from the date of approval by the final review authority if the approval is not exercised.
- B. Project shall be in conformance with the plans approved at the public hearing. Minor changes may be approved by staff level by the Director of Community Development; major changes may be approved at a public hearing.
- C. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- D. Obtain Building permits for the proposed plan.

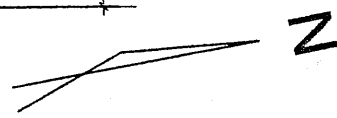
2. DESIGN/EXTERIOR COLORS AND MATERIALS

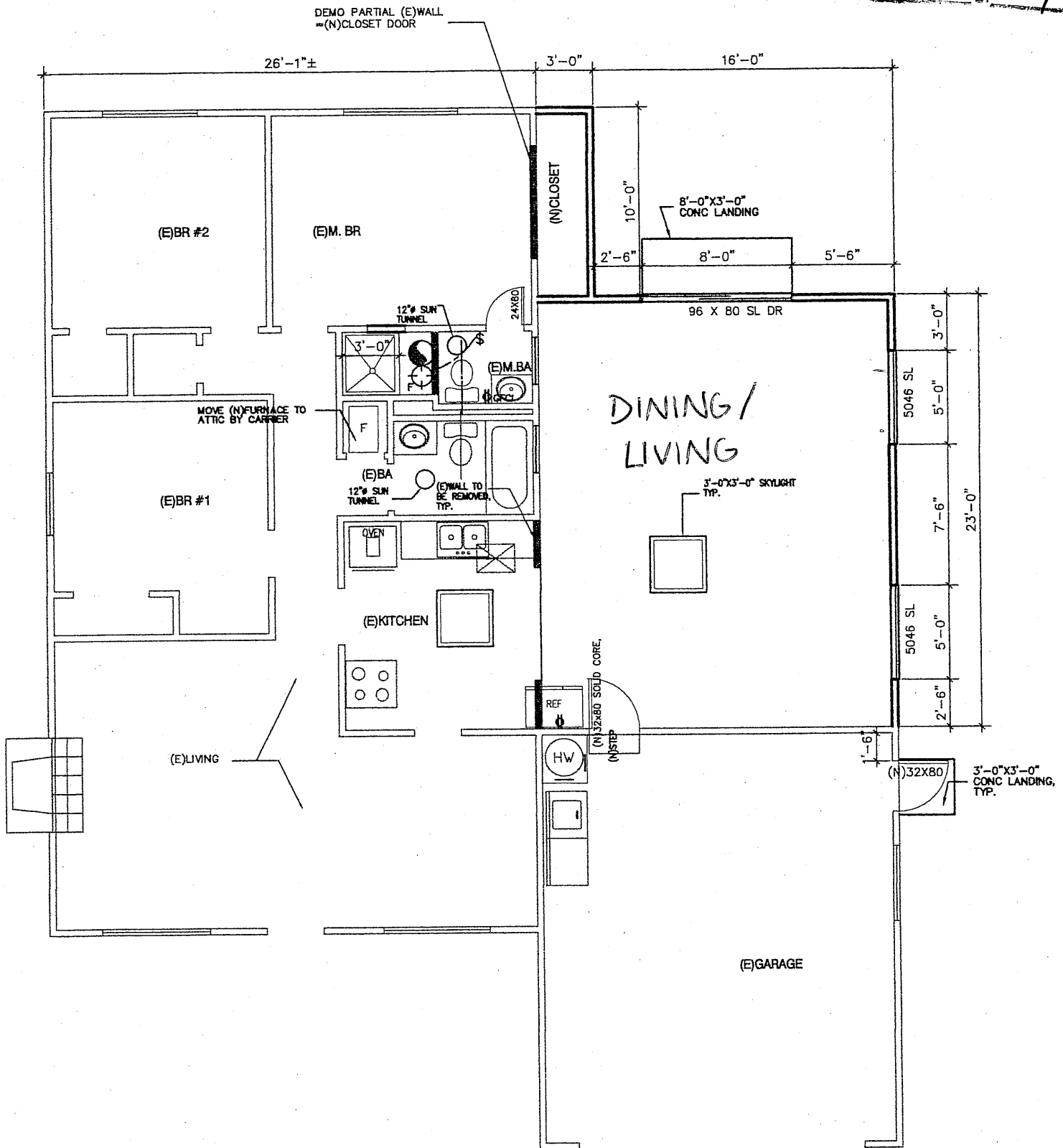
- A. Final exterior building materials and color scheme are subject to review and approval by the Director of Community Development prior to issuance of a building permit.
- B. Roof material shall match the existing home, or, if replaced entirely, be 50-year dimensional composition shingle or equivalent warranty, providing texture and shadow effect, or as approved by the Director of Community Development.



Plot Plan

1/16" = 1'-0"

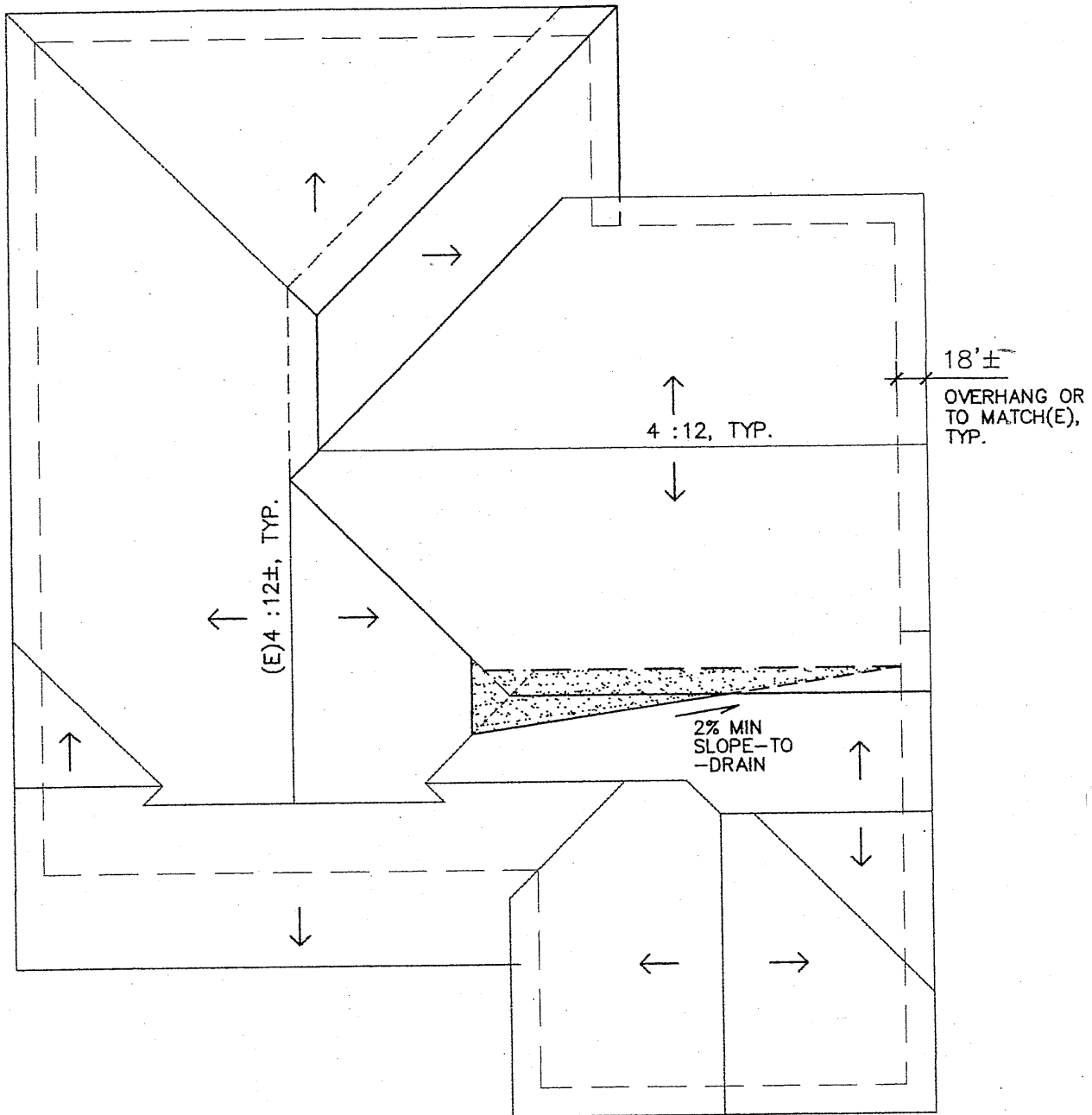




LEGEND:

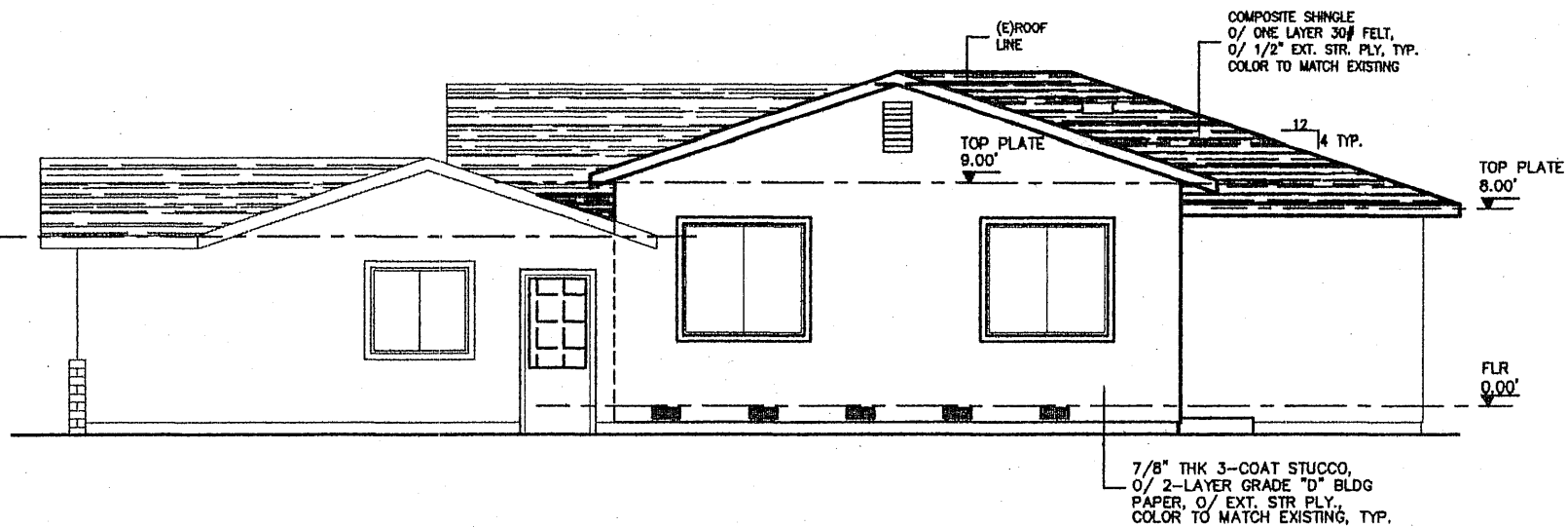
- ==== NEW WALLS
- ===== EXISTING WALLS
- ===== EXISTING WALLS TO BE REMOVED

FLOOR PLAN
 1/4" = 1'-0"



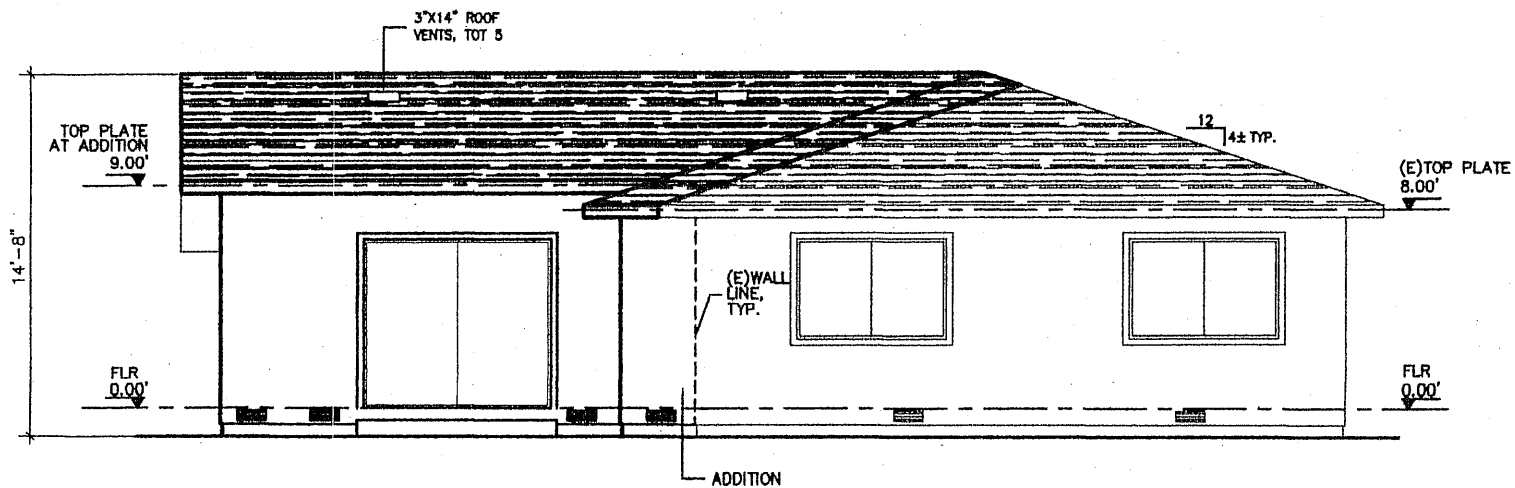
ROOF PLAN

NTS



RIGHT ELEVATION

1/4" = 1'-0"



RIGHT ELEVATION

1/4" = 1'-0"

VARIANCE JUSTIFICATIONS

Justifications must be submitted by the applicant with all Variance applications. Use this sheet or a separate sheet of paper to complete all of the three statements below.

In granting a Variance, all of the following justifications must be made by the Planning Commission or the Administrative Hearing Officer:

19.84.050. Findings.

- (a) A Variance from the requirements of this title, except for the height of a ground sign, shall be approved only upon a showing by the applicant that:
1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

SEE ATTACHED

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

SEE ATTACHED

3. Upon granting of the Variance the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

SEE ATTACHED

If you need assistance in answering any of these justifications, contact the Planning Division staff at the One Stop Permit Center.

19.84.050. Findings

- 1) The existing side setback is 5 ft each side which makes 10 ft the total side setback instead of required 12 ft in Zone R-0 per city requirements. The proposed addition will be attached on the right side of the house, back of the garage and is shorter than the existing dwelling. Per requirements, this side of the side yard setback shall be 7 ft. However, the 5 ft side setback along the proposed addition should be made to this property as an exception. By doing that, the proposed addition would be in-line with the wall of the existing garage. It not only makes the structure square, but also blends into the main dwelling. Therefore, it has a little impact to the existing building. To maintain a 5 ft side setback is also applicable. The existing side yard entrance is 5 ft at the garage in the front. Setting proposed addition 2 ft inward from the existing garage wall line, just to satisfy the current 12 ft total setback ordinance, would not improve the existing 5 ft side yard front entrance. The available access to the backyard remains the same 5 ft. All the side setbacks in the surrounding neighbors are 5 ft in the front. Due to these exceptional circumstances and conditions, we, the owners, propose the side setback along our proposed addition shall maintain 5 ft as the same as one in the front garage.
- 2) The proposed addition will be put in the back of the building and is nothing but a dining area and a living room. On the street side, it may not be even noticed. It has absolutely no detriment to the public welfare. The proposed living will maintain its original 3-bedroom home. There will be no pressure to the local traffic because of granting the Variance. We think it is injurious to the use of neither immediate vicinity nor the same zoning district. 5ft side yard gives a straight path and is wide enough to drain surface water to the city street. Cutting back 2 ft would create a dead corner. Cumulating ground surface water at this area may course differential settlement problem to the building in the life of the structure. It is injurious to the property improvements.
- 3) The granting of such a Variance, gives 1 ft extra comparing to the min 4 ft side setback required in Zone R-0. The minimum side yard setback ordinance is still enforced. The property owner will be granted no any special privilege. The privacy status of the surrounding property owners will have no effect. Off-street parking spaces remain the same.